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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5398 OF 2006

M/s.Kalpana Industries Ltd. Petitioner
versus
Jaiprakash Devoo Kamble Respondent

Mr.Yadav for petitioner.
Ms.Foziya Shaikh for respondent.

CORAM : A.S.OKA, J.

DATE : 18th June 2007

PC :

1. Heard advocates appearing for the parties. By the impugned order the learned Trial Judge has rejected the application made by the petitioner under section 10 of the Code of Civil Procedure, 1908 for stay of the proceedings of Summary Suit No. 3 of 2005 on the ground that the civil suit bearing T.S.No.693 of 2005 is pending between the same parties in the City Civil Court, at Kolkata. The learned advocate for the respondent has produced for my perusal a copy of the order dated 23rd February 2007 passed by the learned Judge of the City Civil Court, at Kolkata which shows that the Suit No.693 of 2005 has been dismissed for

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default.

2. In view of dismissal of the said suit for default, nothing survives in this petition and the same is disposed of. In the event, the Suit No.693 of 2005 is restored, the petitioner will be entitled to apply for restoration of this petition.

(A.S.OKA, J.)